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FILED
Clerk
District Court

SEP 25 2017

for the Northern Mariana Islands
By JM.
(Deputy Clerk)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YUQING ZHAO,

Defendant.

1:17-cr-00016

Case 1:17-cr-00005

**AMENDED
PLEA AGREEMENT**

1 Plaintiff, United States of America, by and through Shawn N. Anderson, Acting United
2 States Attorney for the Districts of Guam and the Northern Mariana Islands, and Eric S.
3 O'Malley, Assistant United States Attorney for the Districts of Guam and the Northern Mariana
4 Islands, and Defendant YUQING ZHAO, and Defendant's counsel, Colin M. Thompson, agree
5 to the following Plea Agreement:

6 **1. Guilty Plea and Maximum Statutory Penalties:**

7 Defendant agrees to enter a guilty plea to Count One of an Information, charging him
8 with a pattern and practice of Unlawful Employment of Aliens, in violation of 8 U.S.C.

9 § 1324a(a)(1)(B), 8 U.S.C. § 1324a(a)(2), and 8 U.S.C. § 1324a(f)(1). Defendant understands

1 that a pattern and practice of Unlawful Employment of Aliens is a Class B Misdemeanor¹, which
2 carries a maximum penalty of not more than six months of imprisonment; and a fine of not more
3 than \$3,000 for each unlawfully employed alien²; not more than a 5-year term of probation³; and
4 a \$10.00 special assessment.⁴ In addition to these maximum penalties, any violation of an order
5 on conditions of probation could lead to additional consequences as set forth in 18 U.S.C.
6 § 3565. Upon acceptance of this Plea Agreement by the Court, the government will move to
7 dismiss the charge contained in the Indictment pursuant to Rule of Criminal Procedure
8 11(c)(1)(C) and will not bring additional charges relating to any conduct described in this Plea
9 Agreement.

10 **2. Effect on Immigration Status:**

11 Defendant recognizes that pleading guilty may have consequences with respect to
12 Defendant's immigration status if Defendant is not a citizen of the United States. Upon
13 information and belief, Defendant is not a citizen of the United States. Defendant is on notice
14 that under federal law many crimes are removable offenses. Removal and other immigration
15 consequences are the subjects of a separate proceeding, however, and Defendant understands that
16 no one, including Defendant's attorney and the Court, can predict to a certainty the effect of
17 Defendant's conviction on Defendant's immigration status. By Defendant's signature below,
18 Defendant affirms that Defendant wants to plead guilty regardless of any immigration
19 consequences that Defendant's plea may entail, even if the consequence is Defendant's
20 automatic removal from the United States. Defendant understands that removal and other

¹ 18 U.S.C. § 3559(a)(3).

² 8 U.S.C. § 1324a(f)(1).

³ 18 U.S.C. § 3561(c)(2).

⁴ 18 U.S.C. § 3013(a)(1)(A)(ii).

unanticipated collateral consequences will not serve as a ground for withdrawing Defendant's guilty plea.

3. The Court is Not a Party to the Agreement:

The Court is not a party to this Plea Agreement and may accept or reject this Plea Agreement. Sentencing is normally a matter that is solely within the discretion of the Court. However, this agreement is governed by Rule of Criminal Procedure 11(c)(1)(C) and once accepted by the Court, the specific sentencing recommendations contained in Section 7 will be binding.

4. Waiver of Constitutional Rights:

Defendant understands that by entering this plea of guilty, Defendant is knowingly and voluntarily waiving certain constitutional rights, including:

- (a). The right to a jury trial;
- (b). The right to see, hear and question the witnesses;
- (c). The right to remain silent at trial;
- (d). The right to testify at trial; and
- (e). The right to compel witnesses to testify.

While Defendant is waiving certain constitutional rights, Defendant understands Defendant retains the right to be assisted through the sentencing and any direct appeal of the conviction and sentence by an attorney, who will be appointed at no cost if Defendant cannot afford to hire an attorney. Defendant also acknowledges that any pretrial motions currently pending before the Court are waived.

5. Elements of the Offense:

The United States and Defendant agree that in order to convict Defendant of Unlawful

1 Employment of Aliens, in violation of 8 U.S.C. § 1324a(a)(1)(A), 8 U.S.C. § 1324a(a)(2), and 8
2 U.S.C. § 1324a(f), the United States would have to prove the following elements beyond a
3 reasonable doubt:

4 First, that the aliens in question were unauthorized aliens, as that term is defined in 8
5 U.S.C. § 1324a(h)(3); and

6 Second, Defendant hired or recruited the aliens in question knowing they were
7 unauthorized aliens, or Defendant continued to employ the aliens in question knowing they were
8 or had become unauthorized aliens; and

9 Third, Defendant engaged in a pattern or practice of unlawfully hiring, recruiting, or
10 continuing to employ unauthorized aliens.

11 **6. Factual Basis and Statement of Facts:**

12 The United States and Defendant stipulate and agree that the following facts are accurate;
13 that the United States could prove these facts beyond a reasonable doubt at trial; and these facts
14 constitute an adequate factual basis for Defendant's guilty plea:

15 (a). Beginning on or about February 24, 2016, until on or about March 31, 2017,
16 Defendant was the project manager of MCC International Saipan Ltd., Co.
17 (hereinafter "MCC"), and was responsible for securing payment for all of MCC's
18 operations in the District of the Northern Mariana Islands, including securing
19 payment for employment and maintenance of MCC personnel. During this time,
20 MCC employed several hundred aliens on the Best Sunshine casino and resort
21 project, at least 180 of whom were not authorized to work in the United States.

22 (b). Beginning on or around August 1, 2016, until on or about March 31, 2017, in the
23 District of the Northern Mariana Islands, Defendant YUQING ZHAO employed

F.G., L.B., H.Z., W.L., M.H., L.C., F.X., B.B., S.C., W.M., Z.S., M.L., W.H., C.L.,
and Z.F., while knowing they were unauthorized aliens.

(c) ~~Defendant employed F.G., L.B., H.Z., W.L., M.H., L.C., F.X., B.B., S.C., W.M.,
Z.S., M.L., W.H., C.L., and Z.F. without complying with the requirements of 8
U.S.C. § 1324a(b).~~ *z/q* *2-1*

This statement of facts is made for the limited purpose of supporting Defendant's guilty
plea. It therefore does not contain all facts relating to the underlying criminal conduct.

7. Sentencing:

In exchange for dismissing the felony count charged in the Indictment, in addition to
forgoing additional charges relating to other unauthorized aliens employed by MCC, the parties
stipulate and jointly recommend the maximum sentence of six (6) months imprisonment.

8. Criminal Fine:

In light of the seriousness and scale of the offense charged, the parties agree that a fine of
no less than TEN THOUSAND DOLLARS (\$10,000) is appropriate.

9. Mandatory Special Penalty Assessment:

Defendant agrees to pay the \$10 mandatory special penalty assessment to the Clerk of
Court for the District of the Northern Mariana Islands, at or before sentencing, pursuant to 18
U.S.C. § 3013 and shall provide a receipt from the Clerk to the United States before sentencing
as proof of this payment.

10. Cooperation and Substantial Assistance:

The United States and Defendant agree that Defendant will have the opportunity to
provide "substantial assistance," that is, information and assistance in the investigation and
prosecution of others. Defendant must meet with federal and state law enforcement agents in an

1 attempt to assist them in obtaining information that would form the basis of a motion for
2 correction or reduction of sentence to be filed pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. §
3 3553(e). Defendant understands that whether any such information amounts to substantial
4 assistance is a determination left to the United States Attorney's Office.

5 (a). Defendant must provide information and assistance in the federal or state
6 investigation and prosecution of others who have the same as or greater involvement than
7 Defendant's involvement in violations of the law.

8 (b). Defendant understands and agrees to participate in full debriefings by federal and
9 local investigative agencies about Defendant's knowledge of illegal conduct, at times and places
10 to be decided by these agencies. Defendant agrees to provide complete, accurate, and truthful
11 information during the debriefings. Such debriefings may involve the use of a polygraph, if
12 requested by the agencies. It is understood that Defendant may have an attorney present at the
13 debriefings. Defendant also agrees to participate in any future court proceeding involving any
14 named or unnamed co-conspirators and any other persons involved in criminal activity, by
15 testifying completely and truthfully. Such court proceedings include grand jury proceedings,
16 trials, and sentencing hearings.

17 (c). Defendant understands this agreement does not protect Defendant from
18 prosecution for perjury, obstruction of justice, or any other offense should Defendant commit
19 any crime during Defendant's cooperation under this agreement.

20 (d). Defendant understands further that if the United States determines that Defendant
21 has provided "substantial assistance" and a motion is made, the Court will be free to impose any
22 sentence, even one below the applicable Guidelines sentencing range and below any statutory
23 minimum. If a "substantial assistance" motion is filed, both the United States and Defendant

1 will be free to make a specific recommendation with respect to any correction or reduction of
2 sentence. It is understood that the United States will inform the sentencing judge about the
3 timing and extent of Defendant's cooperation.

4 (e). Defendant understands that, if the United States files a motion indicating
5 Defendant has provided "substantial assistance," the appropriate reduction shall be determined
6 by the Court for reasons including consideration of the following: (1) the Court's evaluation of
7 the significance and usefulness of Defendant's assistance, taking into consideration the United
8 States' evaluation of the assistance rendered; (2) the truthfulness, completeness, and reliability of
9 any information or testimony provided by Defendant; (3) the nature and extent of Defendant's
10 assistance; (4) any injury suffered, or any danger or risk of injury to Defendant or Defendant's
11 family resulting from Defendant's assistance; and (5) the timeliness of Defendant's assistance.
12 See U.S.S.G. § 5K1.1(a)(1)-(5).

13 **11. Appeal Rights:**

14 Defendant understands that Defendant has a limited right to appeal or challenge the
15 conviction and sentence imposed by the Court. Defendant hereby expressly waives Defendant's
16 right to appeal Defendant's conviction. Defendant further expressly waives Defendant's right to
17 file any post-conviction motion attacking Defendant's conviction, including a motion pursuant to
18 28 U.S.C. § 2255, except one based upon ineffective assistance of counsel, or one based on
19 information not now known by Defendant and which, in the exercise of due diligence, could not
20 be known by Defendant by the time the Court imposes the sentence. Defendant also expressly
21 waives his right to appeal any sentence imposed in this case, unless the sentence imposed
22 exceeds the statutory maximum.

23 //

1 **12. Consequences of Breach:**

2 Defendant agrees that if he is deemed by the Court to be in material breach of any of his
3 obligations under this agreement: (a) Defendant shall not be entitled to withdraw his plea of
4 guilty made in connection with this Plea Agreement; (b) the United States may, in its discretion
5 and at its option, declare null and void any of its obligations under this Agreement; and (c) the
6 United States may recommend whatever sentence it may deem appropriate. The issue of
7 whether Defendant is in material breach of the Agreement shall be determined by the Court in a
8 proceeding at which the United States shall be required to establish breach by a preponderance of
9 the evidence. Defendant understands and agrees that the Federal Rules of Evidence shall not
10 apply at any such hearing, and that the United States may rely at the hearing on any statements or
11 evidence Defendant may have given during cooperation with law enforcement.

12 **13. Integration Clause:**

13 The United States and Defendant acknowledge that this document constitutes the entire
14 Plea Agreement between the United States and Defendant, and no other promises, agreements, or
15 conditions exist between the United States and Defendant concerning the resolution of the case.
16 This Plea Agreement is binding only upon the United States Attorney's Office for the Districts of
17 Guam and the Northern Mariana Islands, and cannot bind other federal, state or local authorities.
18 The United States and Defendant agree that this Plea Agreement is effective when signed by all
19 parties and cannot be modified except in a writing that is signed by the United States and
20 Defendant.

21 //

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23 //

Approvals and Signatures

Agreed and submitted on behalf of the United States Attorney's Office for the Districts of Guam and the Northern Mariana Islands.

SHAWN N. ANDERSON
Acting United States Attorney

By:


ERIC S. O'MALLEY
Assistant U.S. Attorney

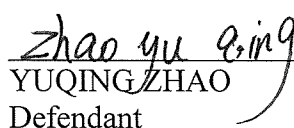
Date

9-12-17

Defendant's Certification

I have read this Plea Agreement and have carefully reviewed and discussed every part of the agreement with my attorney. I understand and voluntarily enter into this Plea Agreement. Furthermore, I have consulted with my attorney about my rights, I understand those rights, and I am satisfied with the representation of my attorney in this case. No other promises or inducements have been made to me, other than those contained in this Plea Agreement and no one has threatened or forced me in any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am guilty.

I further understand that if I am not a citizen of the United States, my guilty plea and conviction may affect my immigration status, and that the United States Attorney's Office has no control over that decision. My attorney has told me this and I still want to plead guilty.


YUQING ZHAO
Defendant

Date

2017.9.12

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Attorney's Certification

I have read the Plea Agreement and have discussed the contents of the agreement with my client. I am of the opinion that the Plea Agreement accurately and completely sets forth the entirety of the agreement between the parties. I am not aware of any reason why the Court could not accept the defendant's plea of guilty.


COLIN M. THOMPSON
Attorney for Defendant YUQING ZHAO

9/12/17
Date

Interpreter's Certification

I hereby certify that I have read and translated the entire foregoing document to Defendant in a language which he is conversant. If questions have arisen, I have notified Defendant's counsel of the questions and have not offered nor given legal advice nor personal opinions. Defendant has indicated to me that he understands each part of this Agreement.


Interpreter for Defendant YUQING ZHAO

9/12/17
Date